



AP/3728

Attorney's Docket No.: 06128-266001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jimmy Tsen et al.
Serial No. : 09/994,439
Filed : November 26, 2001
Title : SHOE

Art Unit : 3728
Examiner : Marie D. Patterson

RECEIVED
MAY 26 2004
TECHNOLOGY CENTER R3700

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Pursuant to 37 CFR 1.193(b)(1), Applicants respond to the new points raised in the Examiner's Answer as follows.

In response to Applicants' statement that there is no suggestion to combine the references, the Examiner asserts the following:

Noticed 7/1/04

Giese clearly and explicitly teaches and provides the motivation to combine the disclosed shoe soles with any other shoe construction. Giese clearly states that the sole construction comprising an outsole and a contoured midsole "creates a combined flexibility of the shoe bottom" and "a shoe is formed providing cushioning where needed and stability where needed." (see column 2 lines 14-22) This clearly provides motivation to use the disclosed composite outsole/midsole when cushioning, flexibility, and stability are desired. The fact that Giese shows numerous embodiments, merely suggests that it would have been obvious to use any of the disclosed sole structures including the one shown in figures 78-82. One of ordinary skill desiring to increase cushioning, flexibility and stability in a shoe (such as Taber) would clearly look to references such as Giese which clearly teach structures which provide such benefits. (See, Examiner's Answer, p. 6, second full paragraph. Emphasis added.)

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

May 19, 2004

Date of Deposit

Linda M. White

Signature

Linda M. White

Typed or Printed Name of Person Signing Certificate